

AMENDED IN ASSEMBLY MARCH 3, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1900

Introduced by Assembly Member Nava

February 7, 2008

An act to add Section 103629 to the Health and Safety Code, and to ~~amend Section 368 of~~ *add Section 368.1* to the Penal Code, relating to seniors.

LEGISLATIVE COUNSEL'S DIGEST

AB 1900, as amended, Nava. ~~Seniors: elder abuse: death records: fees.~~ *Senior services: fees and penalties.*

(1) Existing law requires the collection of fees for certified copies of fetal death or death records and marriage or birth certificates.

This bill would authorize a county board of supervisors, upon making findings and declarations supporting the need for senior services in the county, to authorize an increase in fees for certified copies of a death record, for the purpose of supporting *county* senior services, up to a maximum increase of \$3, ~~and subject to cost-of-living increases by adoption of an ordinance, if certain conditions are met.~~

This bill would require any proceeds collected pursuant to the above provisions to be deposited by the county treasurer into a special county healthy seniors fund for allocation by the county board of supervisors to support county senior services.

(2) Existing law proscribes various crimes committed against an elder or dependent adult when the person has knowledge that the victim is an elder or dependent adult related to physical and financial abuse, including causing or permitting an elder or dependent adult to suffer or inflicting thereon unjustifiable physical pain or mental suffering and

violating any provision of law proscribing theft, embezzlement, forgery, fraud, or identity theft, with respect to the person or property of an elder or dependent adult.

~~This bill would increase the fines for these crimes, upon conviction for the above crimes, impose an additional penalty assessment in the amount of 10% of the fine, if any, imposed for a conviction of the above crimes, to be deposited by the county treasurer into a special county healthy seniors fund for allocation by the county board of supervisors to support county senior services.~~

(3) *Because this bill would require additional duties of local officials, it would impose a state-mandated local program.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known, and may be cited, as the
- 2 Healthy Seniors Act of 2008.
- 3 SEC. 2. Section 103629 is added to the Health and Safety Code,
- 4 to read:
- 5 103629. (a) (1) A county board of supervisors, upon making
- 6 findings and declarations supporting the need for senior services
- 7 in the county, may authorize an increase in the fees for certified
- 8 copies of a death record, up to a maximum increase of three dollars
- 9 (\$3), *by the adoption of an ordinance, if the ordinance authorizing*
- 10 *the fee increase is approved by the board of supervisors and is*
- 11 *subsequently submitted to and approved by the voters of the county*
- 12 *in accordance with Article 3.7 (commencing with Section 53720)*
- 13 *of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government*
- 14 *Code.*
- 15 (2) Effective July 1 of each year, the county board of supervisors
- 16 may authorize an increase in the fee imposed pursuant to paragraph
- 17 (1) by an amount equal to the increase in the Consumer Price Index
- 18 for the standard metropolitan or micropolitan statistical area in

1 which the county is located, rounded to the nearest one half dollar
2 (\$0.50).

3 (b) (1) Proceeds collected pursuant to this section shall be
4 ~~distributed~~ *deposited by the county treasurer into a special county*
5 *healthy seniors fund for allocation by the county board of*
6 *supervisors to nonprofit senior service providers, as chosen by the*
7 *county board of supervisors, or its designee, in an effort to support*
8 *senior services in the county. The special county healthy seniors*
9 *fund shall be the same fund used by the county to deposit moneys*
10 *from healthy senior penalty assessments collected pursuant to*
11 *Section 368.1 of the Penal Code. A county may retain what money*
12 *is necessary for administrative costs associated with collecting*
13 *the fees from the moneys deposited into the special fund.*

14 (2) Any fees authorized by subdivision (a) shall not exceed the
15 cost of supporting senior services in the county.

16 SEC. 3. Section 368 of the Penal Code is amended to read:

17 368. (a) ~~The Legislature finds and declares that crimes against~~
18 ~~elders and dependent adults are deserving of special consideration~~
19 ~~and protection, not unlike the special protections provided for~~
20 ~~minor children, because elders and dependent adults may be~~
21 ~~confused, on various medications, mentally or physically impaired,~~
22 ~~or incompetent, and therefore less able to protect themselves, to~~
23 ~~understand or report criminal conduct, or to testify in court~~
24 ~~proceedings on their own behalf.~~

25 (b) (1) ~~Any person who knows or reasonably should know that~~
26 ~~a person is an elder or dependent adult and who, under~~
27 ~~circumstances or conditions likely to produce great bodily harm~~
28 ~~or death, willfully causes or permits any elder or dependent adult~~
29 ~~to suffer, or inflicts thereon unjustifiable physical pain or mental~~
30 ~~suffering, or having the care or custody of any elder or dependent~~
31 ~~adult, willfully causes or permits the person or health of the elder~~
32 ~~or dependent adult to be injured, or willfully causes or permits the~~
33 ~~elder or dependent adult to be placed in a situation in which his or~~
34 ~~her person or health is endangered, is punishable by imprisonment~~
35 ~~in a county jail not exceeding one year, or by a fine not to exceed~~
36 ~~six thousand six hundred dollars (\$6,600), or by both that fine and~~
37 ~~imprisonment, or by imprisonment in the state prison for two,~~
38 ~~three, or four years.~~

39 (2) ~~If in the commission of an offense described in paragraph~~
40 ~~(1), the victim suffers great bodily injury, as defined in Section~~

1 ~~12022.7, the defendant shall receive an additional term in the state~~
2 ~~prison as follows:~~

3 ~~(A) Three years if the victim is under 70 years of age.~~

4 ~~(B) Five years if the victim is 70 years of age or older.~~

5 ~~(3) If in the commission of an offense described in paragraph~~
6 ~~(1), the defendant proximately causes the death of the victim, the~~
7 ~~defendant shall receive an additional term in the state prison as~~
8 ~~follows:~~

9 ~~(A) Five years if the victim is under 70 years of age.~~

10 ~~(B) Seven years if the victim is 70 years of age or older.~~

11 ~~(c) Any person who knows or reasonably should know that a~~
12 ~~person is an elder or dependent adult and who, under circumstances~~
13 ~~or conditions other than those likely to produce great bodily harm~~
14 ~~or death, willfully causes or permits any elder or dependent adult~~
15 ~~to suffer, or inflicts thereon unjustifiable physical pain or mental~~
16 ~~suffering, or having the care or custody of any elder or dependent~~
17 ~~adult, willfully causes or permits the person or health of the elder~~
18 ~~or dependent adult to be injured or willfully causes or permits the~~
19 ~~elder or dependent adult to be placed in a situation in which his or~~
20 ~~her person or health may be endangered, is guilty of a~~
21 ~~misdemeanor. A second or subsequent violation of this subdivision~~
22 ~~is punishable by a fine not to exceed two thousand two hundred~~
23 ~~dollars (\$2,200), or by imprisonment in a county jail not to exceed~~
24 ~~one year, or by both that fine and imprisonment.~~

25 ~~(d) Any person who is not a caretaker who violates any provision~~
26 ~~of law proscribing theft, embezzlement, forgery, or fraud, or who~~
27 ~~violates Section 530.5 proscribing identity theft, with respect to~~
28 ~~the property or personal identifying information of an elder or a~~
29 ~~dependent adult, and who knows or reasonably should know that~~
30 ~~the victim is an elder or a dependent adult, is punishable by~~
31 ~~imprisonment in a county jail not exceeding one year, or in the~~
32 ~~state prison for two, three, or four years, when the moneys, labor,~~
33 ~~goods, services, or real or personal property taken or obtained is~~
34 ~~of a value exceeding four hundred dollars (\$400); and by a fine~~
35 ~~not exceeding one thousand one hundred dollars (\$1,100), by~~
36 ~~imprisonment in a county jail not exceeding one year, or by both~~
37 ~~that fine and imprisonment, when the moneys, labor, goods,~~
38 ~~services, or real or personal property taken or obtained is of a value~~
39 ~~not exceeding four hundred dollars (\$400).~~

1 ~~(e) Any caretaker of an elder or a dependent adult who violates~~
2 ~~any provision of law proscribing theft, embezzlement, forgery, or~~
3 ~~fraud, or who violates Section 530.5 proscribing identity theft,~~
4 ~~with respect to the property or personal identifying information of~~
5 ~~that elder or dependent adult, is punishable by imprisonment in a~~
6 ~~county jail not exceeding one year, or in the state prison for two,~~
7 ~~three, or four years when the moneys, labor, goods, services, or~~
8 ~~real or personal property taken or obtained is of a value exceeding~~
9 ~~four hundred dollars (\$400), and by a fine not exceeding one~~
10 ~~thousand one hundred dollars (\$1,100), by imprisonment in a~~
11 ~~county jail not exceeding one year, or by both that fine and~~
12 ~~imprisonment, when the moneys, labor, goods, services, or real or~~
13 ~~personal property taken or obtained is of a value not exceeding~~
14 ~~four hundred dollars (\$400).~~

15 ~~(f) Any person who commits the false imprisonment of an elder~~
16 ~~or a dependent adult by the use of violence, menace, fraud, or~~
17 ~~deceit is punishable by imprisonment in the state prison for two,~~
18 ~~three, or four years.~~

19 ~~(g) As used in this section, “elder” means any person who is 65~~
20 ~~years of age or older.~~

21 ~~(h) As used in this section, “dependent adult” means any person~~
22 ~~who is between the ages of 18 and 64 years, who has physical or~~
23 ~~mental limitations which restrict his or her ability to carry out~~
24 ~~normal activities or to protect his or her rights, including, but not~~
25 ~~limited to, persons who have physical or developmental disabilities~~
26 ~~or whose physical or mental abilities have diminished because of~~
27 ~~age. “Dependent adult” includes any person between the ages of~~
28 ~~18 and 64 years who is admitted as an inpatient to a 24-hour health~~
29 ~~facility, as defined in Sections 1250, 1250.2, and 1250.3 of the~~
30 ~~Health and Safety Code.~~

31 ~~(i) As used in this section, “caretaker” means any person who~~
32 ~~has the care, custody, or control of, or who stands in a position of~~
33 ~~trust with, an elder or a dependent adult.~~

34 ~~(j) Nothing in this section shall preclude prosecution under both~~
35 ~~this section and Section 187 or 12022.7 or any other provision of~~
36 ~~law. However, a person shall not receive an additional term of~~
37 ~~imprisonment under both paragraphs (2) and (3) of subdivision~~
38 ~~(b) for any single offense, nor shall a person receive an additional~~
39 ~~term of imprisonment under both Section 12022.7 and paragraph~~
40 ~~(2) or (3) of subdivision (b) for any single offense.~~

1 ~~(k) In any case in which a person is convicted of violating these~~
2 ~~provisions, the court may require him or her to receive appropriate~~
3 ~~counseling as a condition of probation. Any defendant ordered to~~
4 ~~be placed in a counseling program shall be responsible for paying~~
5 ~~the expense of his or her participation in the counseling program~~
6 ~~as determined by the court. The court shall take into consideration~~
7 ~~the ability of the defendant to pay, and no defendant shall be denied~~
8 ~~probation because of his or her inability to pay.~~

9 *SEC. 3. Section 368.1 is added to the Penal Code, to read:*

10 *368.1. (a) Any person convicted of a violation of Section 368,*
11 *in addition to any other fine, assessment, or imprisonment imposed*
12 *pursuant to law, shall pay a healthy seniors penalty assessment*
13 *in the amount of 10 percent of the fine, if any, imposed pursuant*
14 *to Section 368.*

15 *(b) Notwithstanding any other provision of law, the moneys*
16 *from healthy senior penalty assessments collected pursuant to*
17 *subdivision (a) shall be deposited by the county treasurer into a*
18 *special county healthy seniors fund for allocation by the county*
19 *board of supervisors to nonprofit senior service providers, as*
20 *chosen by the county board of supervisors, or its designee, in an*
21 *effort to support senior services in the county. The special county*
22 *healthy seniors fund shall be the same fund used by the county to*
23 *deposit proceeds collected pursuant to Section 103629 of the*
24 *Health and Safety Code. A county may retain what money is*
25 *necessary for administrative costs associated with collecting this*
26 *penalty assessment from the moneys deposited into the special*
27 *fund.*

28 *SEC. 4. No reimbursement is required by this act pursuant to*
29 *Section 6 of Article XIII B of the California Constitution because*
30 *a local agency or school district has the authority to levy service*
31 *charges, fees, or assessments sufficient to pay for the program or*
32 *level of service mandated by this act, within the meaning of Section*
33 *17556 of the Government Code.*